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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,174	04/21/2004	Donald L. Peinetti	040180-000140US	8154
20350	7590	11/09/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/830,174	PEINETTI ET AL.
	Examiner	Art Unit
	Son T. Nguyen	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 August 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
 PRIMARY EXAMINER

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 8/4/06, 8/31/06, 10/24/06.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 8/31/06 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there is no reference listed. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e).

See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1,3-12** are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al. (6232880).

For claim 1, Anderson et al. teach an apparatus for controlling an animal, said apparatus comprising: an animal collar assembly worn by an animal (col. 14, lines 25-45); a detector for detecting a transmitted signal indicating said detector is located within a first zone (col. 4, lines 37-41); a correction signal generator coupled with said

detector and configured to apply a first sequence of correction signals transmitted to said animal for controlling said animal (col. 6, lines 5-12 & col. 14, lines 25-45); wherein said correction signal generator is further configured to apply a second sequence of correction signals transmitted to said animal for controlling said animal and wherein said second sequence is different from said first sequence; and wherein said correction signal generator is further configured to apply said second sequence of correction signals if said animal does not leave said first zone in response to said first sequence of correction signals after a period of time. Note the functional/intended use language of "configured". The signal generator of Anderson et al. can be "configured" to perform a variety of function if one wishes to do so since it is functional use of a device. In addition, Anderson et al. further teach a random time interval generator coupled with said correction signal generator and wherein said second sequence of correction signals is applied in response to said random time interval generator (col. 8, lines 15-22,50-67).

For claim 3, Anderson et al. teach wherein said second sequence of correction signals comprises a randomized sequence of signals (col. 7, lines 54-56 & col. 8, lines 15-22,50-67).

For claim 4, Anderson et al. teach wherein said randomized sequence of signals comprises random intervals between application of each successive signal in said randomized sequence of signals (col. 7, lines 54-56 & col. 8, lines 15-22,50-67).

For claim 5, Anderson et al. teach wherein said correction signal generator is configured to transmit at least one sound in the audible range of said animal as said first

sequence of correction signals and as said second sequence of correction signals (col. 6, line 3 & col. 8, line 19).

For claim 6, Anderson et al. teach wherein said correction signal generator is configured to transmit an electrical stimulation to said animal in said first sequence of correction signals and in said second sequence of correction signals (col. 8, lines 15-22, col. 11, lines 46-65). Note, again, the use of functional language of "configured". Anderson's generator can be configured to transmit an electrical stimulation to said animal in said first sequence of correction signals and in said second sequence of correction signals if one wishes to program it to do so.

For claim 7, Anderson et al. teach wherein prior to generation of said second sequence of correction signals, said correction signal generator is configured to generate successive sets of correction signals wherein each of said successive sets of correction signals has a voltage magnitude greater than the immediately preceding set of corrections signals (col. 8, lines 15-22, col. 11, lines 46-65). Note, again, the use of functional language of "configured". Anderson's generator can be configured to generate successive sets of correction signals wherein each of said successive sets of correction signals has a voltage magnitude greater than the immediately preceding set of corrections signals if one wishes to program it to do so.

For claim 8, Anderson et al. teach wherein each of said signals in said first sequence of correction signals is separated by a separation interval and wherein said separation interval decreases with each successive signal of said first sequence of correction signals (col. 7, lines 50-67, col. 8, lines 15-53, col. 14, lines 1-17).

For claim 9, Anderson et al. teach wherein said detector is further configured to determine a period of time in said first zone after detection of said transmitted signal indicating said detector is located within said first zone. Note, again, the use of functional language of "configured". Anderson's detector can be configured to determine a period of time in said first zone after detection of said transmitted signal indicating said detector is located within said first zone if one wishes to program it to do so.

For claim 10, Anderson et al. teach wherein said generator is configured to apply said second sequence of correction signals if said time exceeds a predetermined period of time. Note, again, the use of functional language of "configured". Anderson's generator can be configured to apply said second sequence of correction signals if said time exceeds a predetermined period of time if one wishes to program it to do so.

For claim 11, Anderson et al. teach wherein said detector for detecting said transmitted signal is configured to detect a strength of said transmitted signal and wherein said strength of said transmitted signal is related to positioning within said first zone. Note, again, the use of functional language of "configured". Anderson's detector can be configured to detect a strength of said transmitted signal and wherein said strength of said transmitted signal is related to positioning within said first zone if one wishes to program it to do so.

For claim 12, Anderson et al. teach wherein said correction signal generator utilizes said strength of said transmitted signal to determine the magnitude of the initial correction signal applied (col. 6, lines 44-67, col. 7, lines 57-67, col. 8, lines 54-67 and col. 9, lines 1-16).

Response to Arguments

4. Applicant's arguments filed 8/30/06 have been fully considered but they are not persuasive.

Applicant argued that Anderson fails to teach a random time interval generator, as claimed in Claim 1. Claim 1 provides for "a random time interval generator coupled with said correction signal generator and wherein said second sequence of correction signals is applied in response to said random time interval generator." The Office Action characterizes Anderson as allegedly teaching this limitation (Col. 7, 11. 54-56; Col. 8, 11. 15-22, 50-67). However, there is no mention in Anderson of a random time interval generator. In fact, cited portions of Anderson appear to teach only that application of a stimulus can be administered to random sides of an animal (Col. 7, 11. 54-56).

Col. 8, lines 50-67 of Anderson et al. are the lines that really teach a random time interval generator because in these lines, Anderson et al. state that the unit will default to a random application of the aversive stimuli, which indicates that there is some sort of random time interval generator to generate random application of the stimuli. Otherwise, how would it be random application of stimuli? It is inherently taught in Anderson et al. that such generator is needed to generate random application of the stimuli. The Examiner has since deleted col. 7, lines 54-56 regarding teaching of random time interval of stimuli. However, col. 8, lines 50-67 were originally mentioned, which these lines do contain teaching of random application of stimuli.

Conclusion

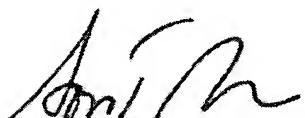
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Son T Nguyen
Primary Examiner
AU 3643